

Message Text

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10

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LAB-06 AF-10 ARA-16 EA-11 EUR-25 NEA-14 RSC-01 FEA-02

CEA-02 CIAE-00 DODE-00 FRB-03 INR-11 INT-08 L-03

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DRAFTED BY EB/OT/TA:WTADAMS:MAM

APPROVED BY EB/OT:CWSCHMIDT

EB/OT/TA:WGBARRACLOUGH

H:KBJENKINS

STR:JDONALDSON

TREASURY:WBAREDA

COMMERCE:BMILLER

AGRICULTURE:RHARPER

LABOR:MFOOKS

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FM SECSTATE WASHDC

TO ALL DIPLOMATIC POSTS

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E.O. 11652: N/A

TAGS: ETRD

SUBJECT: PROGRESS ON TRADE BILL

REF: STATE 172285

1. THE SENATE FINANCE COMMITTEE CHAIRED BY SENATOR LONG MET IN EXECUTIVE MARK-UP SESSION ON AUGUST 20 AND 22. THE COMMITTEE HAS NOT YET GOTTEN TO TITLE V, GENERALIZED PREFERENCES, NOR HAS IT ACTED ON TITLE IV. SOME WORK REMAINS TO BE DONE ON OTHER TITLES. LONG PLANS TO CONTINUE MARK-UP ON SEPTEMBER 5.

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2. THE PARAGRAPHS BELOW ARE EXTRACTED FROM THE COMMITTEE'S PSS RELEASE FOR ITS AUGUST 20 MEETING. (A SEPARATE MESSAGE WILL BE SENT REPORTING AUGUST 22 MEETING AT WHICH COUNTERVAILING DUTIES WERE DISCUSSED.) POSTS MAY DRAW ON THIS INFORMATION IN DISCUSSING CONGRESSIONAL PROGRESS ON THE TRADE BILL. AS WITH EARLIER REPORT (REFTEL) POSTS SHOULD BE CAREFUL TO PUT THESE COMMITTEE RELEASES IN THE CONTEXT OF FURTHER LEGISLATIVE ACTION WHICH WILL INCLUDE FINAL FINANCE COMMITTEE REVIEW, A SENATE VOTE, A HOUSE-SENATE CONFERENCE AND PASSAGE OF THE FINAL BILL BY BOTH HOUSES. WITH RESPECT TO THE RETALIATION AUTHORITY, POSTS SHOULD EMPHASIZE THAT SUBJECT TO CONGRESSIONAL VETO, THE DISCRETION TO ACT ON A MFN OR SELECTIVE BASIS IS RETAINED.

A. TARIFF COMMISSION: TERMS OF OFFICE -- THE COMMITTEE AGREED THAT THE TERMS OF THE TARIFF COMMISSIONERS SHOULD BE EXTENDED TO FOURTEEN YEARS, WITHOUT REAPPOINTMENT. THE COMMITTEE WHICH HAD PREVIOUSLY DECIDED TO EXTEND THE TERMS OF OFFICE TO TWELVE YEARS, AGREED INSTEAD TO PHASE IN FOURTEEN-YEAR TERMS FOR THE SEVEN COMMISSIONERS IN SUCH A WAY THAT ONE TERM WOULD EXPIRE EVERY TWO YEARS.

B. RETALIATION AUTHORITY: COMMERCIAL SERVICES -- UNDER SECTION 301 OF THE HOUSE BILL, THE PRESIDENT COULD RETALIATE AGAINST FOREIGN COUNTRIES WHICH IMPOSE UNJUSTIFIABLE OR UNREASONABLE RESTRICTIONS AGAINST U.S. COMMERCE. THE COMMITTEE AGREED TO AMEND SECTION 301 OF THE HOUSE BILL TO MAKE IT EXPLICIT THAT THE PRESIDENT HAS AUTHORITY TO RETALIATE AGAINST COUNTRIES WHICH MAINTAINS SUCH RESTRICTIONS AGAINST U.S. SERVICES AS WELL AS U.S. COMMERCE. SERVICES WOULD INCLUDE SUCH SECTORS AS THE U.S. SHIPPING, AVIATION, AND INSURANCE INDUSTRIES. ALTHOUGH THE HOUSEWAYS AND MEANS COMMITTEE IN ITS REPORT INDICATED THAT SERVICES WERE UNDERSTOOD TO BE INCLUDED IN THE CONCEPT OF COMMERCE UNDER SECTION 301, THE COMMITTEE THOUGHT THAT FOREIGN RESTRICTIVE ACTIONS AFFECTING SERVICES SHOULD BE EXPLICITLY COVERED UNDER THE RETALIATION AUTHORITY IN THE STATUTE.

C. RETALIATION AUTHORITY: APPLICATION AGAINST SELECTED
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COUNTRIES ONLY -- UNDER THE HOUSE BILL THE PRESIDENT IS DIRECTED TO CONSIDER THE RELATIONSHIP OF ANY RETALIATORY ACTION TAKEN UNDER SECTION 301 TO THE INTERNATIONAL OBLIGATIONS OF THE UNITED STATES. THE COMMITTEE AGREED TO DELETE THIS REFERENCE TO THE INTERNATIONAL OBLIGATIONS OF THE UNITED STATES IN THE HOUSE BILL. THE COMMITTEE AGREED THAT ACTIONS TAKEN BY THE PRESIDENT UNDER SECTION 301 SHOULD GENERALLY BE ON A SELECTIVE BASIS, THAT IS, ONLY

AGAINST THOSE COUNTRIES IMPOSING EITHER UNREASONABLE OR UNJUSTIFIABLE ACTIONS AGAINST U.S. EXPORTS. UNDER THE HOUSE BILL THE PRESIDENT WOULD HAVE THE DISCRETION TO ACT ON A SELECTIVE OR A MOST-FAVORED-NATION (THAT IS ACROSS-THE-BOARD) BASIS WHEN RETALIATING AGAINST UNJUSTIFIABLE IMPORT RESTRICTIONS. HOWEVER, THE COMMITTEE AGREED THAT THE PRESIDENT COULD ACT ON A NONDISCRIMINATORY OR MFN BASIS IF HE DETERMINED IT APPROPRIATE, WITH A PROVISIO THAT CONGRESS COULD OVERRULE THE PRESIDENT'S DETERMINATION AND REQUIRE, BY CONCURRENT RESOLUTION, THAT THE PRESIDENT ACT ONLY AGAINST THAT COUNTRY (OR COUNTRIES) MAINTAINING RESTRICTIONS AGAINST U.S. EXPORTS. KISSINGER

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